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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,535	12/28/2005	Philippe Gentric	FR 030075	6002
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NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			EXAMINER DUBASKY, GIGI L.	
			ART UNIT 2421	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary

Application No.

10/562,535

Applicant(s)

GENTRIC ET AL

Examiner

GIGI L. DUBASKY

Art Unit

2421

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/18/2011 has been entered.

Status of Claims

Claim 10 had been cancelled previously.

Claims 11-16 have been newly added.

Claims 1-9 and 11-16 are pending.

Response to Arguments

2. Applicant's arguments in the Remarks filed on 03/18/2011 have been fully considered but they are not persuasive.

In response to the Applicants' argument that "Leaning fails to disclose a file is selected based upon a proximity in time to a fetching request" (page 9), examiner respectfully disagrees.

By reading the claim in a broadest reasonable sense, Leaning teaches the limitation "at least a file is selected based upon a proximity in time to a fetching request" as following: Leaning discloses for the indexed files, when a user wishes to jump to a desired point (index) of a displayed recording, a request for a file with the desired index (i.e., index = "0:01:44 wireless") is generated and a file with corresponding time (index) is selected to be transmitted (from page 11 line 21 to page 12 line 7), as well as a visual information file (i.e., subtitle or still image) is also selected to accompany the sound recording based on a time index to a request of displaying the visual information file (page 15 lines 9-34). Leaning also discloses for a "live" audio or video feed, a most recently created sub-file is selected based on a time of "start now" (current time) to a request (from page 19 line 18 to page 20 line 9).

Claim Objections

Claims 11 and 14 are objected to because of the following informalities: Claims 11 and 14 recite the limitations "the most recent file" and "the first file to get ready". There is insufficient antecedent basis for this limitation in the claim. They should be amended to --a most recent file-- and --a first file to get ready-- or defined earlier in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 11 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 11 and 14 recite "wherein said at least one file (Fi,j) is selected by **evaluating a delay time of the most recent file and the first file to get ready**". Examiner can find no support for this limitation in the originally filed specification of the instant application. As disclosed in the specification (see page 8 lines 1-18), the server has to select a file to download upon reception of the fetching requests within consideration of **an out-of-date time of the most recent file** (data received by the client will be late by a time equal to a2,1) and **a delay time of the first file to get ready** (the client will experience a delay equal to b3,2 before receiving the data), but not a delay time of both mentioned files. The applicants are required to amend the claims to limitations supported by the specification or to cancel the new matter in the reply to this Office action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leaning et al (WO 02/49343 A1) of the record in view of Lai (US 2003/0236864) of the record.

Regarding claim 1, Leaning discloses a server ("server 1" in Figure 1) having access to at least one set of files (Si) generated by slicing an encoded multimedia content in at least one set of slicing positions ({Ti,1, ...,Ti,K}) forming slices that can be decoded independently one from the other, and by enclosing each slice in a file (Fi,j) thereby generating at least one set of files (page 3 lines 5-22), said server comprising: means for receiving an initial request directed to a multimedia content from a client device (page 2 lines 16-17), the multimedia content including at least one of audio content and video content (see abstract, and page 1 lines 12-14 and 20-21 for delivering recorded audio or video material over a network), means for sending a document to said client device upon reception of said initial request, said document causing said client device to repetitively send a fetching request designating said multimedia content (page 6 lines 5-8 for in the case of the sub-file

given a random name, not a simple fixed length sequence of numbers starting with zero, the server sends name of the first sub-file and an algorithm to calculate succeeding ones or sends a list of the filenames to the terminal's player program; and see the summaries of process between the terminal and the server in the flowchart of pages 9-10 for the terminal repeatedly sends a fetching request for subsequent sub-files of content (going to step J1 in looping) after receiving the instruction from the server. In other words, Leaning clearly discloses that in the case of randomly named sub-files, after receiving the request message from the terminal, the server sends to the terminal a response/a document including the first sub-file's name and an algorithm of calculation of succeeding ones or a list of filenames which instructs the terminal repeatedly sends a fetching request for the rest of subsequent sub-files of content), means for selecting at least one file (Fi,j) including at least one of audio content and video content amongst said set(s) of files, upon reception of said fetching requests from said client device (see the flowchart in page 10 for the server enables to check whether the requested sub-file exists or not, in case of sub-file's existence selects requested sub-file among a set of files and sends it in response to fetching requests from the terminal; and abstract for including audio or video material in files), wherein said at least one file (Fi,j) is selected based upon a proximity in time to said fetching requests (by reading the limitation in a broadest reasonable sense, Leaning teaches this limitation as following: Leaning discloses for the indexed files, when a user wishes to jump to a desired point (index) of a displayed recording, a request for a file with the desired index (i.e., index = "0:01:44 wireless") is generated and a file with corresponding time (index)

is selected to be transmitted (from page 11 line 21 to page 12 line 7), as well as a visual information file (i.e., subtitle or still image) is also selected to accompany the sound recording based on a time index to a request of displaying the visual information file (page 15 lines 9-34). Leaning also discloses for a "live" audio or video feed, a most recently created sub-file is selected based on a time of "start now" (current time) to a request (from page 19 line 18 to page 20 line 9)), and means for downloading the selected file(s) (Fi,j) to said client device (page 2 lines 16-18 and page 5 lines 13-14 for transmitting required sub-file to the terminal in response to request message).

Leaning fails to disclose the fetching request does not identify a specific file to be sent from the server to the client device.

Lai discloses a system for downloading files from a server to a client (see abstract). Lai discloses the server divides the requested file into an appropriate number of packets according to the file size and limited packet size, and stores the packets and an obtained total number of the packets into a file downloading record (§ [0020] lines 16-25 and see Figure 2A). Each packet has a different identification number in order defined by the middle four bits (see Figure 2C). Lai discloses the server transmits each packet in its order, receives a packet-received request (interpreted as a "fetching request") from the client's computer device and deducts the total packet number by 1 in the file downloading record; thereby the server can retrieve a proper packet for next transmission according to the currently recorded total packet number and the middle four bits of packet identification numbers (§ [0022]). It means that Lai discloses the

packet-received request (fetching request) from the client device does not identify a specific packet to be sent from the server to the client device because the server knows exactly which one is next to be transmitted based on the current total packet number and the middle four bits of packet number.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Leaning with the teaching of Lai about the server knows which packet or file is next to be transmitted without requiring the client device identifies a specific packet or file to be sent in the fetching request, so to provide an more effective system which enables not only to simplify the fetching message transmitted from the client device to the server for saving bandwidth in communication, but also to allow user to continuously download only un-transmitted part of requested content if there is an interruption (taught by Lai; ¶ [0009]).

Regarding claim 2, Leaning in view of Lai discloses the server as discussed in the rejection of claim 1. The combined system further discloses the document contains a resource identifier designating said multimedia content and specific to the client device (taught by Leaning; see the flowchart in page 9 for the server sends a response which includes a resource identifier of requested content (http://server1.com/mp3_bwv565/link.htm) to requested terminal upon receiving a request message), and causes the client device to repetitively send fetching requests containing said resource identifier (taught by Leaning; see the flowchart in page 10 for the terminal repeatedly sends a fetching request for subsequent sub-files of content

(going to step J1 in looping) after receiving the instruction from the server), and said server further comprises:

means, activated upon reception of a first fetching request, for selecting a first file to be downloaded amongst said set(s) of files (Si) (taught by Leaning; page 6 lines 5-8 for in the case of sub-file given a random name not a simple fixed length sequence of numbers starting with zero, the terminal's player program is sent the name of the first sub-file and an algorithm to calculate succeeding ones or is sent a list of the filenames from the server after sending the initiated request message), and for keeping a record of said resource identifier together with an indication of the selected file at the server and updating the record (taught by Lai; ¶ [0006] for establishing the file downloading record by utilizing member number and file identification number from member database and file resource database respectively as well as a total packet number and divided packets with their identification numbers in a file downloading database of the website server; and ¶ [0018] and ¶ [0026]-[0028] for file downloading record is maintained and updated to keep track of what next packet to be transmitted in case of interruption or whether the file is successfully downloaded to the user); and

means, activated upon reception of subsequent fetching requests, for checking in order to select the next file to be downloaded (taught by Leaning; see the flowchart in page 10 for the server enables to check whether the requested sub-file exists or not, in case of sub-file's existence selects requested sub-file among a set of files and sends it in response to fetching requests from the terminal).

Regarding claim 3, Leaning in view of Lai discloses the server as discussed in the rejection of claim 2. The combined system further discloses the document comprises an instruction for the client device to send a subsequent fetching request before the end of the playback of the file that was downloaded in response to the previous fetching request (taught by Leaning; page 15 line 12 through page 16 line 5 for offering an option of having files pre-loaded).

Regarding claim 4, Leaning in view of Lai discloses the server as discussed in the rejection of claim 2. The combined system further discloses means for selecting a file to download based on a jump indication contained in said fetching request (taught by Leaning; page 11 line 12 through page 12 line 7).

Regarding claim 5, all limitations of claim 5 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 1. So, claim 5 is rejected under the same rationale as claim 1.

Regarding claim 6, all limitations of claim 6 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 2. So, claim 6 is rejected under the same rationale as claim 2.

Regarding claim 7, all limitations of claim 7 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 3. So, claim 7 is rejected under the same rationale as claim 3.

Regarding claim 8, all limitations of claim 8 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 4. So, claim 8 is rejected under the same rationale as claim 4.

Regarding claim 9, Leaning discloses a network system (see Figure 1) comprising:

- a source for acquiring a multimedia content (page 1 lines 13-14 for "server 1" stores a set of files representing successive portions of audio or video material. It means that the server includes a source for acquiring content),
- an encoder encoding said multimedia content (page 1 lines 20-24 for transmitting digitally coded/encoded audio or video material from the first station/server. It means that server must include an encoder),
- a slicer for slicing said encoded multimedia content in at least one set of slicing positions ($\{Ti, 1, \dots, Ti, k\}$) forming at least one set of slices that can be decoded independently one from the other, and for enclosing each slice in a file thereby generating at least one set of files (Si) (page 1 lines 20-24 for partitioning the material into a plurality of discrete files or sub-files. It means that server couples to a slicer),
- a distribution network ("internet 2"),

an access provider for providing a client device with an access to said distribution network (page 2 lines 5-13 for the "internet 2" also performs function as an access provider to provide "terminal 3" with an access to telecommunication network via "communication interface 35" in Figure 2), and a server ("server 1").

Leaning in view of Lai discloses a server as discussed in the rejection of claim 1.

Regarding claim 11, Leaning in view of Lai discloses the server as discussed in claim 1. The combined system further discloses wherein said at least one file ($F_{i,j}$) is selected by evaluating a delay time of the most recent file and the first file to get ready (taught by Leaning; page 19 lines 18-31).

Regarding claim 12, Leaning in view of Lai discloses the server as discussed in claim 1. The combined system further discloses wherein the server has access to at least one subsequent set of files ($S_{i+n,j}$) generated by slicing an encoded multimedia content in at least one set of slicing positions ($\{T_{i+n,1}, \dots, T_{i+n,k}\}$) (by reading the claim in a broadest reasonable sense, Leaning still teaches this as following: page 6 lines 13-15 and lines 21-26 for storing and having access to a plurality of set of files of encoded audio or video material partitioning into at least one set of indices (as "slicing positions") shifted in time compared to a previous set of slicing positions (page 13 lines 32-33 and Figure 4 for set S2 is shifted in time (or overlapped) compared to a previous set S1).

Regarding claim 13, Leaning in view of Lai discloses the server as discussed in claim 12. The combined system, Leaning per se, further discloses wherein said at least one file is selected from at least two sets of files (see claim 4).

Regarding claim 14, all limitations of claim 14 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 11. So, claim 14 is rejected under the same rationale as claim 11.

Regarding claim 15, all limitations of claim 15 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 12. So, claim 15 is rejected under the same rationale as claim 12.

Regarding claim 16, all limitations of claim 16 are analyzed corresponding to the functionalities of the server as discussed in the rejection of claim 13. So, claim 16 is rejected under the same rationale as claim 13.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIGI L. DUBASKY whose telephone number is (571)270-5686. The examiner can normally be reached on Monday through Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KRISTINE L. KINCAID can be reached on 571-272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GD

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